

RESPONSIBLE
alcohol sales and service
TRAINING
PROGRAM



Let's Control It

ALCOHOL RESPONSIBILITY MATTERS

Alcohol Education

For owners and employees in the industry, you need to know your legal responsibilities and liabilities regarding alcohol sales and service at all venues.

The alcohol education program offers comprehensive education on these responsibilities and liabilities.

Through its responsible alcohol sales and service training, the program provides tips on how to spot fake identification, deal with alcohol misuse and handle difficult or troublesome situations. This training helps to enhance the cooperation between local law enforcement officials and the sales and service industry. It also makes your job easier and makes Montana a better, safer place to live.

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Why training is important

Retailers are one line of defense in preventing underage sales of alcohol. Clerks can make or break an illegal sale. Retailers have responsibilities toward the safe use of alcohol in their communities and training can help reinforce that responsibility. Training can also reduce personal liability and risk in the case of a lawsuit or injury as well as possible protection from legal consequences.



Program Goals

- Learn Montana law
- Develop skills:
 - Prevent sales to minors
 - Prevent over-service
- Reduce youth access to alcohol
- Promote collaborative, community efforts regarding underage drinking
- Provide educational information and resources about underage drinking to parents, the education community, students, institutions of higher learning, and law enforcement organizations throughout Montana.



Training enhances public health and safety by

- Educating licensees and servers about Montana alcohol laws
- Providing information to servers to protect them from third party liability lawsuits
- Reducing illegal alcohol sales to minors
- Promoting responsible consumption
- Reducing the number of drunk drivers
- Reducing alcohol abuse
- Reducing overservice

Students learn

Server training is intended to help servers/sellers of alcohol develop the knowledge and skills that support responsible alcohol service. Classes cover the following topics:

- Why training is important
- A servers/sellers responsibility
- Effects of underage alcohol use
- Hours of operation
- Forms of liability
- Reasonable effort
- Developing company policy
- How to identify minors
- Acceptable forms of identification

How the class is taught

The Department of Revenue (DOR) certifies community trainers across the state to provide the responsible alcohol sales and service training. DOR designs, reviews, and updates the model curriculum, issues certificates of training and maintains training records.

To assure accurate, quality instruction, the DOR regularly monitors class evaluations, and each trainer is required to attend an 8-hour train-the-trainer session, pass a certification exam, and recertify every two years.

Find a class

To check for a trainer or class in your area or to schedule an on-site class, check our website at AlcoholServerTraining.mt.gov or call (406) 444-4307

A list of other state preapproved responsible alcohol sales training programs can also be found on the website.

Legal Responsibilities

Key laws regarding sales and service of alcohol

It is illegal to give or sell alcohol to minors.

It is unlawful for any licensee, a licensee's employee, or any other person to sell, deliver, or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to anyone under 21 years of age.

16-3-301(4)(a) MCA

It is illegal to use a false ID to purchase alcohol.

Any person under 21 years of age or any other person who knowingly misrepresents the person's qualifications for the purpose of obtaining an alcoholic beverage from the licensee is equally guilty with the licensee...

16-3-301(5) MCA

It is illegal to invite someone under 21 into an establishment and provide them alcohol.

It is against the law for any person to invite a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives or purchases an alcoholic beverage for the person; permits the person in a public place where an alcoholic beverage is sold to treat, give, or purchase alcoholic beverages for the person; or holds out the person to be 21 years of age or older to the owner of the establishment or to the owner's employee.

16-6-305(2) MCA

It is illegal to supply an intoxicating substance to a child, and it is illegal to encourage a child to use an intoxicating substance.

A parent or guardian, or other person who is 18 years of age or older, whether or not the parent, guardian, or other person supervising the welfare of the child, commits the offense of endangering the welfare of children if the parent, guardian, or other person knowingly contributes to the delinquency of a child less than 18 years old by supplying or encouraging the use of an intoxicating substance by the child.

45-5-622(2)(a)(i) MCA

It is illegal to knowingly sell an alcoholic beverage to a person under 21.

A person commits the offense of unlawful transactions with children if the person knowingly sells or gives an alcoholic beverage to a person under 21 years of age.

45-5-623(c) MCA

It is illegal to sell a keg of beer without a keg tag.

A licensee may not sell a keg of beer unless an identification tag is attached to the keg by the licensee.

16-3-321 MCA

It is illegal to serve or sell alcohol to anyone who is intoxicated.

It is unlawful for any licensee, a licensee's employee, or any other person to sell, deliver, or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to any intoxicated person or any person actually, apparently, or obviously intoxicated.

16-3-301(4)(b) MCA

State signs must be displayed.

All licensees must display in a prominent place in their premises an age placard as issued by the Department of Revenue stating fully the consequences of violations of the provisions of this code by persons under 21 years of age.

16-3-301(6) MCA

Open containers are not allowed on agency liquor store premises.

An agent and the agent's employees in an agency store may not allow any alcoholic beverage container to be opened on the premises of an agency liquor store or allow any alcoholic beverage to be consumed on the premises of an agency liquor store, nor may any person open an alcoholic beverage container or consume any alcoholic beverage in an agency liquor store.

16-2-107 MCA

No open container allowed in vehicles.

A person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway.

16-8-460 MCA

Premises open for inspection.

... a peace officer may at any time examine the premises of a retail licensee to determine whether the law of Montana and the rules of the department or the Department of Justice are being complied with; this includes cars or aircrafts licensed under this code.

16-6-103 MCA

Premises open for inspection (2).

A peace officer has the right to examine any premises, that sells alcohol, to check the books, records and stock-in-trade. A peace officer has the right any time to enter and access all parts of the licensed premises for inspections

ARM 42.13.103

Must comply with rules.

All licensees, their agents, and employees must conduct the licensed premises in compliance with the rules of the state and other local agencies and abide by all.

ARM 42.13.101

Key laws regarding sales of tobacco products

State signs must be displayed.

A retail seller of tobacco products shall conspicuously display, at each place on the premises at which tobacco products are displayed and sold, a sign that is to be provided without charge by the Department of Revenue that states: "Montana law prohibits the sale of tobacco products to persons under 18 years of age."

16-11-304 MCA

It is illegal to sell or give tobacco products to anyone under 18.

A person may not sell or distribute a tobacco product to an individual under 18 years of age, whether over the counter, by vending machine, or otherwise.

16-11-305 MCA

Inspection and notification of violation required.

The Department of Public Health and Human Services shall conduct inspections of persons selling or distributing tobacco products to determine compliance with the law. Inspections may be conducted directly by the Department of Public Health and Human Services or may be provided for by contract let by the Department of Public Health and Human Services.

16-11-309 MCA

Minors not liable for possession.

An individual under 18 years of age assisting in the enforcement of this part is not liable under a civil or criminal law for the possession of a tobacco product possessed for the purposes of enforcing this part.

16-11-310 MCA



Liability for Licensees and Employees

The license holder carries the primary legal responsibility for compliance with alcohol laws. However, individual staff members can also be charged and convicted when they violate these laws.

The question that inevitably arises in court pertains to how visibly drunk the patron was before he or she got in the car. Would a reasonable person be able to tell that the patron was obviously drunk? Was the patron overserved to the point of intoxication?

The Three Forms of Liability

Civil

Administrative

Criminal

Civil

This kind of liability is a means by which the injured party attempts to seek compensation, usually monetary, when injury or harm results from serving alcohol. Owners and employees are subject to this because of Montana's Dram Shop law.

Dram Shop Law

Under English Common Law, which is what is practiced in the United States, bar/tavern owners and employees are not held liable for alcohol related incidents. However, Montana is one of the 43 states that have a "dram shop law," which allows for bar owners, managers and alcohol servers to be held financially liable if a customer becomes obviously intoxicated on their premises and subsequently injures someone or causes property damage, typically by driving over the legal drinking limit.

The word "dram" is a unit of liquid measure dating back to the 1800s. Alcohol was sold by the "dram" which is about an 1/8 of a teaspoon.

Administrative

This type of liability allows the Department of Revenue, or any regulating entity, to impose a monetary fine, suspend or revoke any type of license when regulations are broken.

Criminal

This type of liability addresses the legal responsibility for one's acts or omissions. Failure of a person or entity to meet that responsibility leaves him/her open to a lawsuit for any resulting damages.

When an underage person is served alcohol, both the server/seller and the licensee/owner can be held responsible.

Criminal and Civil Action

The **server/seller** can be subject to criminal action within the county it took place. The server/seller may be sentenced to a term of imprisonment not to exceed 6 months in the county jail or a fine not to exceed \$500, or both depending on the charge.

The **licensee/owner** can be subject to criminal and administrative action at the state level. See table on page 14 for fine amounts.

Both **licensee/owner** and the **server/seller** can also be subject to civil action.

Administrative Penalties for Licensees

Violation	1st Offense	2nd Offense	3rd Offense	4th Offense
Sale to a minor	\$250	\$1000	\$1500 and up to a 20-day suspension	Revocation
Sale to intoxicated persons	\$250	\$1000	\$1500 and up to a 20-day suspension	Revocation
Open after hours	\$150	\$600	\$1000 and up to a 12-day suspension	Revocation
Sale after hours	\$150	\$600	\$1000 and up to a 12-day suspension	Revocation
Re-pouring	\$250	\$1000	\$1500 and up to a 20-day suspension	Revocation
Denial of Right to Inspect	\$150	\$600	\$1000 and up to a 12-day suspension	Revocation
No approval to alter	\$300	\$600	\$1000 and up to a 12-day suspension	Revocation
No management agreement	\$150	\$600	\$1000 and up to a 12-day suspension	Revocation
Improper use of catering endorsement	\$150	\$600	\$1000 and up to a 12-day suspension	Revocation
Accept more than 7 days credit	\$250	\$1000	\$1500 and up to a 20-day suspension	Revocation
Extend more than 7 days	\$250	\$1000	\$1500 and up to a 20-day suspension	Revocation
Undisclosed ownership interest	Fine and Suspension or Revocation	Fine and Suspension or Revocation	Fine and Suspension or Revocation	Fine and Suspension or Revocation
90-Day nonuse without approval	Lapse	Lapse	Lapse	Lapse

42.13.101 ARM For more violation information, contact the Department of Revenue at (406) 444-6900. as of 6/1/10

What You Can Do Behind the Bar/Counter

A major concern for bar owners and servers is that customers may have too much to drink and leave the establishment where they may hurt themselves or others.

Effective ways to deal with excessive drinkers for on-premises locations:

- Suggest alternative beverages such as soft drinks, coffee, tea or non-alcoholic drinks.
- Offer food such as table snacks, hors d'oeuvres, soup or salad, sandwich or even a full meal.
- Visit their table less frequently while still providing good customer service.
- Wait until everyone at the table is finished and clear glasses before taking orders.
- Encourage participation in available activities such as dancing, song contests, video games, etc.
- Suggest they slow down or taper off.
- Cut off service when necessary. You may have to tell the person they have had enough to drink and you are not going to serve them anymore.
- Drink counting: one way to keep patrons from becoming intoxicated is to keep track of their drinks.

Secondary selling or “shoulder tapping”

Secondary selling or “shoulder tapping” is a practice in which minors obtain alcohol from individuals of legal age. When “shoulder tapping,” minors usually approach an adult outside an establishment or in another part of an establishment and ask that adult to make a purchase for them.

Prevention methods for secondary selling/shoulder tapping

- Post signs preventing loitering and enforce them.
- Floor awareness
 - Look for areas of the establishment where kids may “hide.”
 - Watch who comes in together and if they stay together.
 - Keep an eye on parts of the establishment where games are kept; underage people may congregate there.

Owners can help reduce excessive drinking

Eliminate specials that promote excessive drinking within short periods of time. Some examples include:

- Ladies drink at half price
- 2 for 1 specials
- Wasted Wednesday
- Thirsty Thursday
- Happy Hour

How to handle an intoxicated customer

- Offer an alternative to alcohol
- Ask for help (coworker/friends)
- Offer to call a cab
- Provide free food/drink
- Provide good customer service
- Call police if situation escalates
- Know your establishment policies and state law


Refuse to sell when necessary

- Remain calm
- Be polite and apologetic
- Use “I” statements
 - I’m sorry I could lose my job etc
- Explain policies and state law
- DOCUMENT EVERYTHING
 - Who, what, where, when, activity

Reasonable Effort

The law requires that a server/seller make a reasonable effort to prevent intoxication in customers, prevent alcohol sales to minors, or to intervene if a customer does become intoxicated. One of the ways this can be accomplished is through a good company policy.

Some examples of reasonable effort include:

- Checking ID
 - Offering food
 - Providing alternate transportation
 - Refusing service
 - Checking identification
 - Written establishment policies
 - Responsible Alcohol Sales and Service Training
- 

Company Policy

A good way to protect your establishment is to make sure that you have a written policy that deals with all aspects of serving and selling alcohol and tobacco if applicable. You may contact the Department of Revenue at (406) 444-4307 for assistance in developing your policy.

Some things a company policy should include

- Identification of expectations regarding sales and service
- A requirement that all staff members read the written policy and sign acknowledgment form
- A requirement that all employees attend server training annually
- An outline for preventing sales to underage youth
- A description of consequences for violating the policy
- Information on how to deal with intoxicated customers
- Instruction on using an incident log
- Outline how management will support staff regarding refusals of sales or service
- Ideas on promoting alternative ways for patrons to get home safely:
 - Designated driver
 - Taxi cabs
 - Safe ride programs
- Process for monitoring staff compliance:
 - Internal compliance checks
 - Observing staff on a regular basis
 - Correcting behavior when necessary
- Rewards for staff members for compliance with the policy:
 - Encouragement for checking identification
 - Incentive program with meaningful staff rewards

Train staff to

- Always ask and check identification thoroughly
- How to recognize fake identification
- Know state alcohol laws

- Deal with hostile customers
- Refuse sales and service when in doubt
- Learn safety procedures when working alone
- Ask the manager for help with difficult situations

Make your establishment a low-risk environment

- Have all employees attend a responsible alcohol sales and service training program. Call (406) 444-4307 for more information or visit *AlcoholServicerTraining.mt.gov*
- Ensure sufficient light for identification checks
- Install security systems
- Restrict loitering
- Display alcohol/tobacco away from doorways and entrances
- For establishments that only serve alcohol, restrict entry to those under 21
- Observe customers' actions
- Inform customers of the establishment's policy and the law
- Use identification scanners
- Use ultra-violet scanners
- Display alcohol related signage in a prominent place

What affects intoxication

- Body Size
 - Small 80 - 130 lbs, Medium 131 - 180 lbs, Large 181 + lbs
- Body compositions
- Food
- Mood
- Rate of consumption
- Drug use
- Tolerance
- Drink type
 - beer, wine, distilled spirits

Ways to identify apparent intoxication

Alcohol is quickly absorbed from the stomach and small intestine into the bloodstream. Ethanol is drawn to water, so alcohol distributes throughout the water-containing parts of the body. The brain (85% water by composition) is especially sensitive to alcohol's effects. The amount of alcohol consumed, the time after consumption, and the genetic background of the individual are important factors in determining an individual's response to drinking alcohol (nih.gov). As a rule-of-thumb, it takes approximately 1 hour for the body to expel about 1 oz. of alcohol.

Body

People with a higher body fat percent will be affected by alcohol faster than a person of the same weight with a lower body fat percent. People with low body fat, have a higher amount of water in their body and can "dilute" the alcohol more.

Food

Foods with a high percent of fat and protein will slow the digestion rate and thus the absorption rate. It will not make a person sober, but it will help them not get as drunk.

If a person has been drinking before they come in, then you will need to keep an eye on them for signs of intoxication early on.


Drug use

If people use prescription drugs to control their mental health, or use certain other prescription drugs, or street drugs, alcohol will have an added effect. If a person seems to demonstrate signs of intoxicating behaviors faster than normal, this may be what is going on. Trust your judgment.

Tolerance

If two people of the same body type eat and drink the same amounts, but one is an alcoholic and one is not, they will both have the same BAC levels. The alcoholic may display very few behavioral signs of intoxication because they are a "practiced" drinker. So, if someone comes in and drinks an amount that you feel would intoxicate them, but they do not demonstrate any behaviors of intoxication, they may have a high tolerance - but they are still impaired.

Ways to prevent intoxication

- Know the alcohol content of beverages served
 - Measure and monitor strength of drinks
 - Pay attention to frequency of service
 - Have food available
 - Have non-alcoholic drinks available
 - Advertising and promotions - use responsible consumption messages
 - Continually evaluate your customers
 - Don't stack drinks
 - Remove old drink when new drink is served
 - Serve water with drinks
- 

Behavioral Cues

It is illegal to sell or give any alcoholic beverage to anyone **apparently, obviously, or actually** intoxicated.

16-11-301 (4)(b), MCA

Behavioral cues indicate progressive levels of intoxication. The goal with behavioral cues is to differentiate between responsible drinkers and potentially irresponsible drinkers.

Behavioral cues of potentially irresponsible drinkers appear progressively in four basic areas:

1. Inhibitions:

- Becoming overly friendly
- Defiant confidence
- Becoming loud
- Changing from loud to quiet or vice versa
- Drinking alone
- Annoying other customers

2. Judgment:

- Complaining about strength of drink
- Changing consumption rate
- Ordering doubles
- Becoming argumentative
- Using foul language
- Careless with money
- Buying rounds for strangers or buying for the house
- Making irrational statements
- Becoming belligerent

3. Reactions:

- Lighting more than one cigarette at a time
- Unable to light cigarette
- Glassy eyes, lack of eye focus
- Loss of train of thought
- Slurred speech

4. Coordination:

- Unable to pick up change
- Spilling drink, can't find mouth with glass
- Unable to sit straight on chair or barstool, swaying, drowsy
- Stumbling, has trouble moving around objects in path, bumps into things



**If in Doubt Don't
Sell or Serve!**

Things to Remember

The body gets rid of about 1 oz. of ethyl alcohol per hour.



8^{oz}

8% alcohol
malt liquor

12^{oz}

5% alcohol
beer/cooler

5^{oz}

12% alcohol
table wine

1.5^{oz}

40 % alcohol
hard liquor

Each of these drinks has about 1oz. of ethyl alcohol. For specialty craft beers with an alcohol content up to 14%, usually a 4 to 6 oz. serving would be equal to the above listed drink equivalency rates.

FLAG System for Checking IDs

Feel

- Have the customer remove ID from their wallet
- Flick the edge of the ID
- Feel the edge of the photo
- Check for pinholes, glue lines, and bumpy surfaces

Look

- Check the font
- Look at the picture and person
- Look at the ghost photo
- Look for the seals on the laminate
- Check for the UV security features
- Check the back of the ID

Ask

- Ask questions
 - When is your birthday?
 - What is your address?
 - What is your driver license number?
 - What is your middle name?
 - Ask the person to sign their name and compare signatures

Give back

If the ID passes your screening process, give it back to the customer and complete the transaction. If it does not pass, follow your company policy.

Recognizing False Identifications

Ways people obtain false identification

- Borrow identification from older sibling or a friend
- Computer generated false identification
- Alter information on existing identification
- Stolen identification

Acceptable forms of identification

- Current state or Canadian province or territory issued driver's license
- Current state or Canadian province or territory issued identification card
- Current armed service identification card
- Current passport
- Immigration card
- Tribal identification card

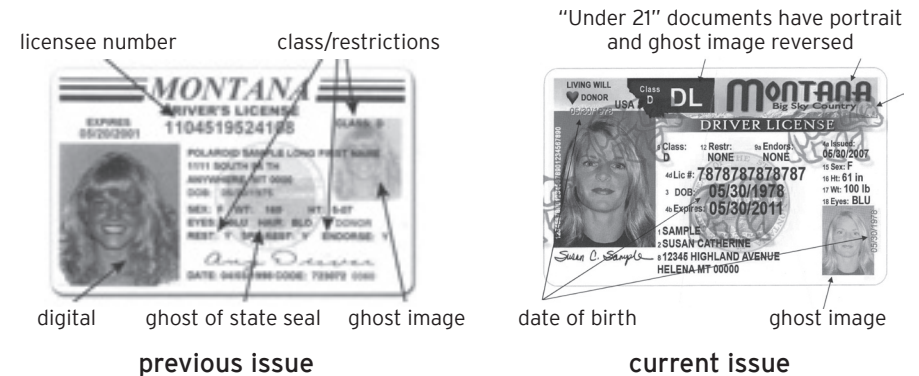
Items to look for on identification

- Expiration date (no expiration date on tribal cards)
- Birth date - ask for the date and compare that with the license
- Photo - compare the photo on the license and the person it identifies
- Height, weight, eye color, hair - license should describe the person presenting it
- Thickness of license - watch for raised surface, which may indicate an inserted photo
- Separations in lamination
- Surface of identification - watch for raised photo, knife cuts, or any rough areas that may have been altered
- Blurred lettering - watch for type that does not match or looks like it has been altered

- Check signatures - have the person write out their signature and compare it
- Ask for a second picture identification if there is any doubt

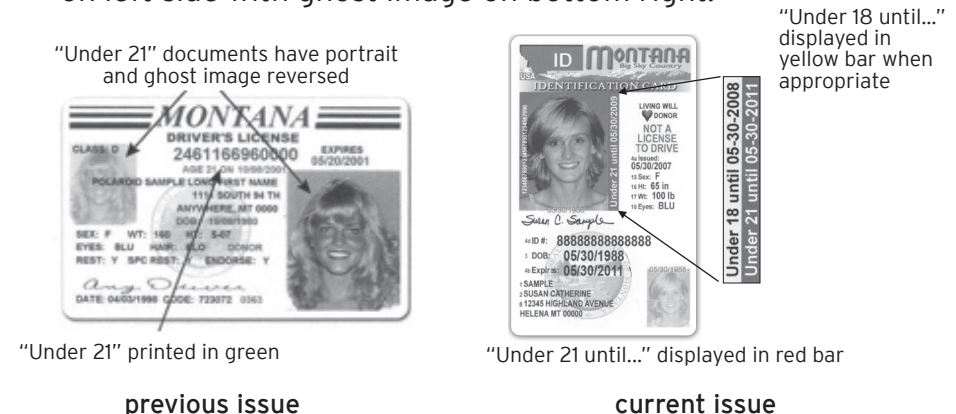
Adult driver's license or ID card

- Shows photo of person on left side with ghost image on top right of previous issue and bottom right of new issue.



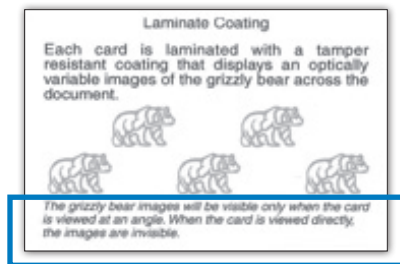
Under 21 driver's license or identification card

- **Previous Issue:** Shows photo of person on right side with ghost image on top left of card front.
- **Current Issue:** Card is vertical and shows photo of person on left side with ghost image on bottom right.



Adult and under 21 laminate

- **Previous issue laminate:** Secure laminate with a tamper-resistant coating that displays optically-variable images of a grizzly bear across the document. Even a surgeon's scalpel leaves a visible line on the face of the license indicating attempts of tampering.
- **Current Issue:** Secure laminate is comprised of tiny rolled glass beads and has a unique tactile feel. This laminate appears on the front of the card and does not extend to the absolute edge of the card. This feature is only visible under a focused light source and will look like the below right picture.



previous issue



current issue

Tribal identification cards

As of October 1, 2007, tribal identification cards are to be treated the same as other statutorily recognized forms of identification for certain purposes including the purchase of alcohol and tobacco products.

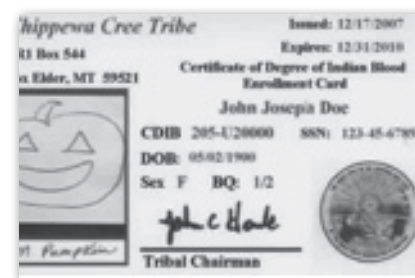
Most tribal identification cards do not have an expiration date or identification number and many use a social security number.



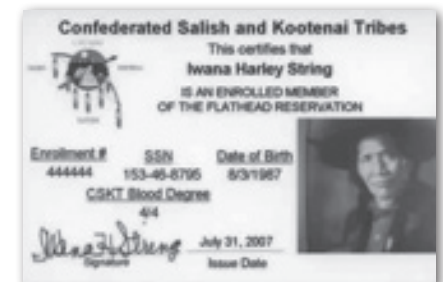
(Blackfoot Reservation)



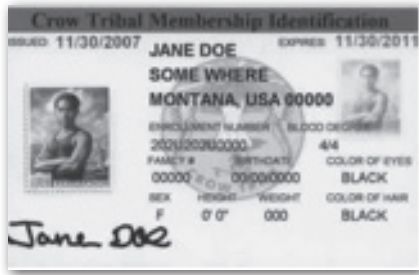
(Blackfoot Reservation)



(Rocky Boy's Reservation)



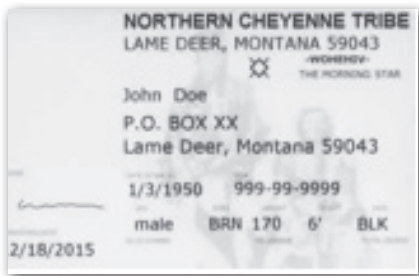
(Flathead Reservation)



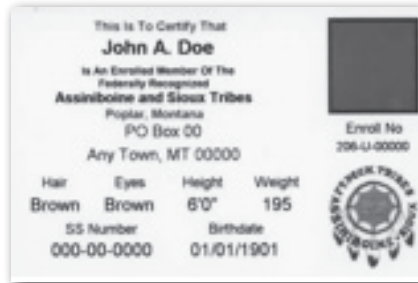
(Crow Reservation)



(Ft. Belknap Reservation)



(Northern Cheyenne Reservation)



(Fort Peck Reservation)

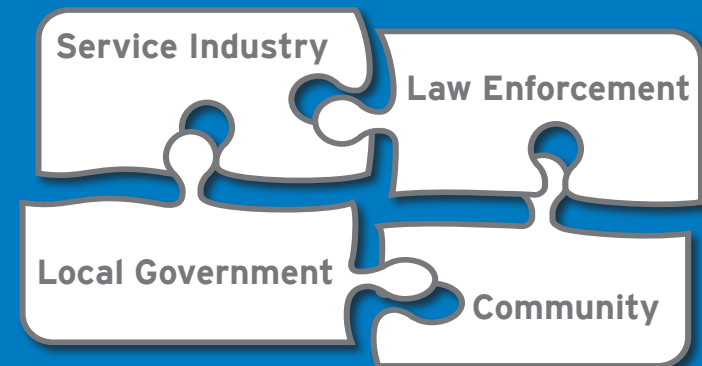
For more information regarding tribal identification, visit the Montana Tribal ID website at tribalid.mt.gov.

Working with Law Enforcement

Things you can do to help law enforcement reduce underage drinking and over-service

- Report all cases of underage persons attempting to purchase alcohol, whether it's with false identification or other means.
- Seize all false identification cards and turn them over to law enforcement, if you can do so safely.
- Report any legal-aged person(s) you suspect of buying alcohol for any underage person(s).
- Keep an incident log (date, time, and anything about the incident that happened).
- Report impaired drivers by calling 911.

We are all pieces of the same puzzle



Working together, we can make the pieces fit.

Definitions

Repouring: Pouring alcoholic beverages from the manufacturer's original container into another container.

Denial of right to inspect: Refusal by the licensee (or any employee) to allow a law enforcement officer access to the licensed premises.

No approval to alter: A licensee may not alter or remodel their premises without prior Department of Revenue approval.

No management agreement: If a licensee hires a manager, a management agreement must be submitted within 30 days of hire to and approved by the Department of Revenue. Managers must go through a background check.

Improper use of catering endorsement: Not reporting to law enforcement as required or catering at a location not otherwise licensed.

Accept more than a 7-day credit: A licensee may not accept credit from a beer/wine distributor for more than 7 days.

Extend more than a 7-day credit: A beer/wine distributor may not grant more than a 7-day credit for a product.

Undisclosed ownership interest: Ownership not otherwise disclosed to the Department of Revenue. All owners' names must appear on the face of the license.

90-day, non-use without approval: A licensee may not close his business for more than 90 days without Department of Revenue approval; otherwise the license may lapse.

Responsible Alcohol Sales and Service Training

How to become a state trainer

The Department of Revenue is always looking to recruit more trainers to implement responsible alcohol sales and service curriculum throughout the state. State trainers are volunteers who teach classes to sellers and servers in their local area. To become a trainer, you must take a train-the-trainer course and pass the certification exam. Trainers are required to recertify every two years. Trainers are provided with a training manual, training aids, PowerPoint presentation and a master copy of each handout. Trainers must make their own copies of the handouts. A materials fee of no more than \$15 per person may be charged by trainers to help offset the cost of materials.

What is required of a trainer?

- Teach at least two classes per year
- Trainers must keep Department of Revenue up-to-date on their contact information.
- Trainers must register their classes with the Department of Revenue.
- After each training session, trainers must provide the Department of Revenue with a copy of the class sign-in sheet and the course evaluation.

Interested? Call for more information.

406-444-4307

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DOR attempts to provide reasonable accommodations for any known disability that may interfere with a person participating in any service program or activity of the Department.
TDD (406) 444-2830

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